

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**FEB 28 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

In re: DAWN JEAN KYLE,

Debtor,

CLINTON IRVING, Speical  
Administrator for the ESTATE OF  
MARIE FRANCES HOLT; et al.,

Appellants,

v.

CAROLYN A. DYE, Chapter 7 Trustee,

Appellee.

No. 04-55616

BAP No. CC-03-01624-MaKMo

MEMORANDUM\*

---

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

In re: DAWN JEAN KYLE,

Debtor,

---

CLINTON IRVING, Special  
Administrator for the ESTATE OF  
MARIE FRANCES HOLT; et al.,

Appellants,

v.

CAROLYN A. DYE, Chapter 7 Trustee,

Appellee.

No. 04-55977

BAP No. CC-04-01026-MaKMo

Appeal from the Ninth Circuit  
Bankruptcy Appellate Panel  
Montali, Klein, and Marlar, Bankruptcy Judges, Presiding

Argued and Submitted February 16, 2006  
Pasadena, California

Before: CANBY, KLEINFELD, and BERZON, Circuit Judges.

Clinton Irving, administrator for the estate of Marie Francis Holt, appeals two distinct orders of dismissal from the Bankruptcy Appellate Panel (“BAP”) arising out of a single case. The BAP dismissed one appeal because Irving lacked

standing, the other because the property had been sold and the case thus mooted pursuant to the “bankruptcy mootness rule.”<sup>1</sup> The BAP offered Irving a stay, but the estate failed to put up the bond required. The property was thereafter sold and the case mooted because failure to obtain a stay is fatal to the case.<sup>2</sup> We therefore affirm the BAP’s dismissal of 04-55616 as moot.

We also affirm the BAP decision in 04-55977 that the probate estate lacked standing because it neither objected to the compromise agreement between the “Cinderella Living Trust” and the bankruptcy estate nor demonstrated that it was “adversely affected pecuniarily.”<sup>3</sup>

**AFFIRMED.** All pending motions in these cases are denied as **MOOT**.

---

<sup>1</sup> In re Onouli-Kona Land Co., 846 F.2d 1170, 1173 (9th Cir. 1988).

<sup>2</sup> See In re National Mass Media Telecommunication Systems, Inc., 152 F.3d 1178, 1181 (9th Cir. 1998).

<sup>3</sup> In re Fondiller, 707 F.2d 441, 442 (9th Cir. 1983).